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H. LaDon Baltimore
T.R.A. DOCKET ROOM

August 3, 2005

Honorable Ron Jones, Chairman
Tennessee Regulatory Authority
ATTN: Sharla Dillon, Dockets
460 James Robertson Parkway
Nashville, TN 37243-5015

Via Hand Delivery

RE: Joint Petition for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended; Tennessee Regulatory Authority Docket No. 04-00046

Dear Chairman Jones:

NuVox Communications, Inc. and Xspedius Communications, Inc. ("Joint Petitioners"), through their undersigned counsel, file the enclosed original and 13 copies of the attached Georgia Public Service Commission Staff Memorandum of July 25, 2005 recommending denying the Motion of BellSouth Telecommunications, Inc. to move issues to the generic proceeding. Such staff recommendation was adopted by the Georgia Public Service Commissioners on August 2, 2005, by a vote of 5-0. In addition, the North Carolina Utilities Commission declined to grant BellSouth's Motion to move issues to the generic proceeding. These rulings support the position of the Joint Petitioners.

Thank you for your assistance. If you have questions, please do not hesitate to contact me.

Respectfully submitted,




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Honorable Ron Jones, Chairman
August 3, 2005
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Certificate of Service

The undersigned hereby certifies that on this the 3rd day of August, 2005, a true and correct copy of the foregoing has been forwarded via electronic transmission to the following

Guy Hicks
BellSouth Telecommunications, Inc
333 Commerce Street, Suite 2101
Nashville, TN 37201
guy.hicks@bellsouth.com


H. LaDon Baltimore

MEMORANDUM

TO: All Commissioners
Tom Bond

FROM: Shaun Rosemond
Public Utilities Engineer, Telecommunications

DATE: July 25, 2005

RE: *Telecommunications Committee Agenda Item*
DOCKET NO 18409-U. Joint Petition for Arbitration of NewSouth Communications Corporation, et al of an Interconnection Agreement with BellSouth Telecommunications, Inc.: Consideration of BellSouth's Motion to Move TRO Arbitration Issues to Docket No 19341-U (Generic Proceeding to Examine Issues Related to BellSouth's Obligation to Provide Unbundled Network Elements). (Shaun Rosemond, Dan Walsh)

BellSouth Motion

On June 30, 2005, BellSouth Telecommunications, Inc. ("BellSouth") filed with the Georgia Public Service Commission ("Commission") a Motion to Move TRO Arbitration Issues to Docket No. 19341-U (Generic Change of Law Proceeding). BellSouth asserted that Arbitration Issues 26, 36, 37, 38 and 51 were comparable to issues that were included in the Joint Issues List that was submitted and ultimately approved by the Commission. BellSouth stated that it would be a more efficient use of resources and would eliminate the risk of inconsistent decisions for the Commission to move the issues from the arbitration docket to the generic proceeding. BellSouth also stated that such action would be consistent with actions that the Commission has taken in prior arbitration proceedings.

Joint Petitioner Response

The Joint Petitioners filed their Opposition to BellSouth's Motion on July 8, 2005. The Joint Petitioners argued that the granting of BellSouth's Motion would strip the Joint Petitioners of their rights to have the TRO-related Arbitration issues decided in the context of their section 252 arbitration, that it would require the Joint Petitioners to litigate the same issues twice against BellSouth, and that it would delay BellSouth's obligation to comply with the Triennial Review Order.

Staff Recommendation

The Staff recommends that the Commission deny BellSouth's Motion. The issues have been presented in hearings and initial briefs have already been filed in the matter. Therefore, it does not appear that there are significant efficiencies to be gained by moving the issues from the arbitration docket to the generic proceeding. Moving the

issues into the generic proceeding at this time may subject parties to unnecessary delay in implementing their rights via arbitrated agreements. In making this recommendation, the Staff is not taking the position that the Commission lacks the authority to determine, in a generic proceeding, issues that were raised initially in an arbitration docket. In certain instances, it may be more efficient to do so.